

Showing Current Law as Amended by H.R. 4524, Parity for Tribal Law Enforcement Act

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Indian Law Enforcement Reform Act

SECTION 3: INDIAN LAW ENFORCEMENT RESPONSIBILITIES

(a) Responsibility of Secretary

The Secretary, acting through the Bureau, shall be responsible for providing, or for assisting in the provision of, law enforcement services in Indian country as provided in this chapter.

(b) Office of Justice Services

There is established in the Bureau an office, to be known as the "Office of Justice Services", that, under the supervision of the Secretary, or an individual designated by the Secretary, shall be responsible for—

- (1) carrying out the law enforcement functions of the Secretary in Indian country, and
- (2) implementing the provisions of this section.

(c) Additional responsibilities of Division

Subject to the provisions of this chapter and other applicable Federal or tribal laws, the responsibilities of the Office of Justice Services in Indian country shall include—

- (1) the enforcement of Federal law and, with the consent of the Indian tribe, tribal law;
- (2) in cooperation with appropriate Federal and tribal law enforcement agencies, the investigation of offenses against criminal laws of the United States;
- (3) the protection of life and property;
- (4) the development of methods and expertise to resolve conflicts and solve crimes;
- (5) the provision of criminal justice remedial actions, correctional and detention services, and rehabilitation;
- (6) the reduction of recidivism and adverse social effects;
- (7) the development of preventive and outreach programs which will enhance the public conception of law enforcement responsibilities through training and development of needed public service skills;
- (8) the assessment and evaluation of program accomplishments in reducing crime;
- (9) the development and provision of law enforcement training and technical assistance, including training to properly interview victims of domestic and sexual violence and to collect, preserve, and present evidence to Federal and tribal prosecutors to increase the conviction rate for domestic and sexual violence offenses for purposes of addressing and preventing domestic and sexual violent offenses;
- (10) the development and provision of dispatch and emergency and E-911 services;
- (11) communicating with tribal leaders, tribal community and victims' advocates, tribal justice officials, indigent defense representatives, and residents of Indian country on a regular basis regarding public safety and justice concerns facing tribal communities;

(12) conducting meaningful and timely consultation with tribal leaders and tribal justice officials in the development of regulatory policies and other actions that affect public safety and justice in Indian country;

(13) providing technical assistance and training to tribal law enforcement officials to gain access and input authority to utilize the National Criminal Information Center and other national crime information databases pursuant to section 534 of title 28;

(14) in coordination with the Attorney General pursuant to subsection (g) of section 10132 of title 34, collecting, analyzing, and reporting data regarding Indian country crimes on an annual basis;

(15) on an annual basis, sharing with the Department of Justice all relevant crime data, including Uniform Crime Reports, that the Office of Justice Services prepares and receives from tribal law enforcement agencies on a tribe-by-tribe basis to ensure that individual tribal governments providing data are eligible for programs offered by the Department of Justice;

(16) submitting to the appropriate committees of Congress, for each fiscal year, a detailed spending report regarding tribal public safety and justice programs that includes—

(A)(i) the number of full-time employees of the Bureau and tribal governments who serve as—

(I) criminal investigators;

(II) uniform police;

(III) police and emergency dispatchers;

(IV) detention officers;

(V) executive personnel, including special agents in charge, and directors and deputies of various offices in the Office of Justice Services; and

(VI) tribal court judges, prosecutors, public defenders, appointed defense counsel, or related staff; and

(ii) the amount of appropriations obligated for each category described in clause (i) for each fiscal year;

(B) a list of amounts dedicated to law enforcement and corrections, vehicles, related transportation costs, equipment, inmate transportation costs, inmate transfer costs, replacement, improvement, and repair of facilities, personnel transfers, detailees and costs related to their details, emergency events, public safety and justice communications and technology costs, and tribal court personnel, facilities, indigent defense, and related program costs;

(C) a list of the unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies, the replacement and repair needs of tribal and Bureau corrections facilities, needs for tribal police and court facilities, and public safety and emergency communications and technology needs; and

(D) the formula, priority list or other methodology used to determine the method of disbursement of funds for the public safety and justice programs administered by the Office of Justice Services;

(17) submitting to the appropriate committees of Congress, for each fiscal year, a report summarizing the technical assistance, training, and other support provided to tribal law enforcement and corrections agencies that operate relevant programs pursuant to self-determination contracts or self-governance compacts with the Secretary; and

(18) promulgating regulations to carry out this chapter, and routinely reviewing and updating, as necessary, the regulations contained in subchapter B of title 25,¹ Code of Federal Regulations (or successor regulations).

(d) Branch of Criminal Investigations; establishment, responsibilities, regulations, personnel, etc.

(1) The Secretary shall establish within the Office of Justice Services a separate Branch of Criminal Investigations which, under such inter-agency agreement as may be reached between the Secretary and appropriate agencies or officials of the Department of Justice and subject to such guidelines as may be adopted by relevant United States attorneys, shall be responsible for the investigation, and presentation for prosecution, of cases involving violations of sections 1152 and 1153 of title 18 within Indian country.

(2) The Branch of Criminal Investigations shall not be primarily responsible for the routine law enforcement and police operations of the Bureau in Indian country.

(3) The Secretary shall prescribe regulations which shall establish a procedure for active cooperation and consultation of the criminal investigative employees of the Bureau assigned to an Indian reservation with the governmental and law enforcement officials of the Indian tribe located on such reservation.

(4)(i) Criminal investigative personnel of the Branch shall be subject only to the supervision and direction of law enforcement personnel of the Branch or of the Office of Justice Services. Such personnel shall not be subject to the supervision of the Bureau of Indian Affairs Agency Superintendent or Bureau of Indian Affairs Area Office Director. Nothing in this paragraph is intended to prohibit cooperation, coordination, or consultation, as appropriate, with nonlaw enforcement Bureau of Indian Affairs personnel at the agency or area levels, or prohibit or restrict the right of a tribe to contract the investigative program under the authority of Public Law 93–638 [25 U.S.C. 5301 et seq.] or to maintain its own criminal investigative operations.

(ii) At the end of one year following the date of establishment of the separate Branch of Criminal Investigations, any tribe may, by resolution of the governing body of the tribe, request the Secretary to reestablish line authority through the Agency Superintendent or Bureau of Indian Affairs Area Office Director. In the absence of good cause to the contrary, the Secretary, upon receipt of such resolution, shall reestablish the line authority as requested by the tribe.

(e) Standards of education and experience and classification of positions

(1) Standards of education and experience

(A) In general

The Secretary shall establish appropriate standards of education, experience, training, and other relevant qualifications for law enforcement personnel of the Office of Justice Services who are charged with law enforcement responsibilities pursuant to section 2803 of this title.

(B) Requirements for training

The training standards established under subparagraph (A)—

(i) shall be consistent with standards accepted by the Federal Law Enforcement Training Accreditation commission for law enforcement officers attending similar programs; and

(ii) shall include, or be supplemented by, instruction regarding Federal sources of authority and jurisdiction, Federal crimes, Federal rules of criminal procedure, and constitutional law to bridge the gap between State training and Federal requirements.

(C) Training at State, tribal, and local academies

Law enforcement personnel of the Office of Justice Services or an Indian tribe may satisfy the training standards established under subparagraph (A) through training at a State or tribal police academy, a State, regional, local, or tribal college or university, or other training academy (including any program at a State, regional, local, or tribal college or university) that meets the appropriate Peace Officer Standards of Training.

(D) Maximum age requirement

Pursuant to section 3307(e) of title 5, the Secretary may employ as a law enforcement officer under section 2803 of this title any individual under the age of 47, if the individual meets all other applicable hiring requirements for the applicable law enforcement position.

(2) The Secretary shall also provide for the classification of such positions within the Office of Justice Services at GS grades, as provided in section 5104 of title 5, consistent with the responsibilities and duties assigned to such positions and with the qualifications established for such positions.

(3) In classifying positions in the Office of Justice Services under paragraph (2), the Secretary shall ensure that such positions are classified at GS grades comparable to those for other Federal law enforcement personnel in other Federal agencies in light of the responsibilities, duties, and qualifications required of such positions.

(4) Background checks for tribal justice officials

(A) In general

The Office of Justice Services shall develop standards and deadlines for the provision of background checks to tribal law enforcement and corrections officials.

(B) Timing

If a request for a background check is made by an Indian tribe that has contracted or entered into a compact for law enforcement or corrections services with the Bureau of Indian Affairs pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),² the Office of Justice Services shall complete the check not later than 60 days after the date of receipt of the request, unless an adequate reason for failure to respond by that date is provided to the Indian tribe in writing.

(f) Long-term plan for tribal detention programs

Not later than 1 year after July 29, 2010, the Secretary, acting through the Bureau, in coordination with the Department of Justice and in consultation with tribal leaders, tribal courts, tribal law enforcement officers, and tribal corrections officials, shall submit to Congress a long-term plan to address incarceration in Indian country, including—

(1) a description of proposed activities for—

(A) the construction, operation, and maintenance of juvenile (in accordance with section 2453(a)(3) of this title³ and adult detention facilities (including regional facilities) in Indian country;

(B) contracting with State and local detention centers, upon approval of affected tribal governments; and

(C) alternatives to incarceration, developed in cooperation with tribal court systems;

(2) an assessment and consideration of the construction of Federal detention facilities in Indian country; and

(3) any other alternatives as the Secretary, in coordination with the Attorney General and in consultation with Indian tribes, determines to be necessary.

SECTION 4: LAW ENFORCEMENT AUTHORITY

The Secretary may charge employees of the Bureau with law enforcement responsibilities and may authorize those employees to-

- (1) carry firearms;
- (2) execute or serve warrants, summonses, or other orders relating to a crime committed in Indian country and issued under the laws of-
 - (A) the United States (including those issued by a Court of Indian Offenses under regulations prescribed by the Secretary or offenses processed by the Central Violations Bureau); or
 - (B) an Indian tribe if authorized by the Indian tribe;
- (3) make an arrest without a warrant for an offense committed in Indian country if-
 - (A) the offense is committed in the presence of the employee,¹
 - (B) the offense is a felony and the employee has probable cause to believe that the person to be arrested has committed, or is committing, the felony;
 - (C) the offense is a misdemeanor crime of domestic violence, dating violence, stalking, or violation of a protection order and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has probable cause to believe that the person to be arrested has committed, or is committing the crime; or
- (D)(i) the offense involves-
 - (I) a misdemeanor controlled substance offense in violation of-
 - (aa) the Controlled Substances Act (21 U.S.C. 801 et seq.);
 - (bb) title IX of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a et seq.); ² or
 - (cc) section 865 of title 21;
 - (II) a misdemeanor firearms offense in violation of chapter 44 of title 18;
 - (III) a misdemeanor assault in violation of chapter 7 of title 18; or
 - (IV) a misdemeanor liquor trafficking offense in violation of chapter 59 of title 18; and
- (ii) the employee has probable cause to believe that the individual to be arrested has committed, or is committing, the crime;
- (4) offer and pay a reward for services or information, or purchase evidence, assisting in the detection or investigation of the commission of an offense committed in Indian country or in the arrest of an offender against the United States;
- (5) make inquiries of any person, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter relevant to the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the employee to enforce or carry out tribal laws;
- (6) wear a prescribed uniform and badge or carry prescribed credentials;
- (7) perform any other law enforcement related duty; and

(8) when requested, assist (with or without reimbursement) any Federal, tribal, State, or local law enforcement agency in the enforcement or carrying out of the laws or regulations the agency enforces or administers.

SEC. 4A. TRIBAL LAW ENFORCEMENT OFFICERS.

(a) Notwithstanding any other provision of Federal law, law enforcement officers of any Indian Tribe that has contracted or compacted any or all Federal law enforcement functions through the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5301 et seq.](#)) shall have the authority to enforce Federal law within the area under the Tribe's jurisdiction, if—

(1) the Tribal officers involved have—

(A) completed training that is comparable to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country, as determined by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs or the Deputy Bureau Director's designee;

(B) passed an adjudicated background investigation equivalent to that of an employee of the Office of Justice Services of the Bureau of Indian Affairs who is providing the same services in Indian country; and

(C) received a certification from the Office of Justice Services of the Bureau of Indian Affairs, as described in subsection (c); and

(2) the Tribe has adopted policies and procedures that meet or exceed those of the Office of Justice Services of the Bureau of Indian Affairs for the same program, service, function, or activity.

(b) While acting under the authority granted by the Secretary through an Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5301 et seq.](#)) contract or compact, a Tribal law enforcement officer shall be deemed to be a Federal law enforcement officer for the purposes of—

(1) sections 111 and 1114 of title 18, United States Code;

(2) consideration as an eligible officer under subchapter III of [chapter 81](#) of title 5, United States Code;

(3) subchapter III of chapter 83 and subchapter III of [chapter 84](#) of title 5, United States Code; and

(4) [chapter 171](#) of title 28, United States Code (commonly known as the 'Federal Tort Claims Act').

(c) (1) Not later than 24 months after the date of enactment of this section, the Secretary shall—

(A) develop procedures for the credentialing of Tribal officers under this section, independent of section 5, to provide confirmation that Tribal officers meet minimum certification standards and training requirements for Indian country peace officers, as prescribed by the Secretary; and

(B) promulgate guidance, in consultation with Indian Tribes, to otherwise implement the provisions of this section.

(2) Tribal law enforcement officers who choose to attend a State or other equivalent training program approved by the Deputy Bureau Director of the Office of Justice Services of the Bureau of Indian Affairs, or the Deputy Bureau Director's designee, rather than attend the Indian Police Academy, shall be required to attend the IPA Bridge Program, or an equivalent program, prior to receiving a certification under this subsection.